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10 UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF WASHINGTON

12 UNITED STATES OF AMERICA,

13 Plaintiff,

2:18-CR-00134-SMJ

14 v.

15 RANDY COY JAMES HOLMES,

16 Defendant.

United States' Sentencing  
Memorandum

17 Plaintiff, United States of America, by and through William D. Hyslop, United  
18 States Attorney for the Eastern District of Washington, and Patrick J. Cashman,  
19 Assistant United States Attorney for the Eastern District of Washington, submits the  
20 following sentencing memorandum.

21 The United States submits that a sentence of 37 months, followed by a three  
22 year term of supervised release is a fair and just sentence that is no greater than  
23 necessary to meet the principles of federal sentencing.

24 I. Base Offense Level & Enhancements

25 The United States concurs with the United States Probation Office's ("USPO")  
26 calculation of a base offense level of 14, pursuant to United States Sentencing  
27 Guideline ("USSG") §2A2.1(a)(6)(A).  
28

1 The United States further agrees that the Defendant is subject to a four (4) level  
2 enhancement because the firearm possessed had an obliterated serial number. *See*  
3 USSG §2A2.1(b)(4)(B).

4 The United States agrees that the Defendant maintains a Criminal History  
5 Category V. Accordingly the United States agrees that the Defendant's advisory  
6 guideline range is thirty-seven (37) to forty-six (46) months.

## 7 II. Departures

8 The United States does not request an upward departure in this case. The United  
9 States intends to object to a downward departure or variance requested by the  
10 Defendant.

## 11 III. 18 U.S.C. § 3553(a)

12 A sentence of 37 months, followed by a 3 year term of supervised release is a  
13 fair and sufficient sentence that is no greater than necessary to meet the principles of  
14 federal sentencing. The Defendant is a documented gang member that has repeatedly  
15 violated the law. In this case, the Defendant possessed a firearm illegally. The  
16 firearm had an obliterated serial number. The possession of a firearm with an  
17 obliterated serial number heightens the criminality involved. A firearm with an  
18 obliterated serial number is often an indication that other crimes were involved, for  
19 example the firearm being stolen. In the present case, the firearm was previously  
20 reported stolen. Obliterated serial numbers hamper investigators ability to track  
21 firearms that are stolen or used in violent offenses such as assaults and homicides. *See*  
22 *United States v. Romero-Martinez*, 443 F.3d 1185, 1188 (9th Cir. 2006), quoting  
23 *United States v. Carter*, 421 F.3d 909 (9th Cir. 2005). As noted in *Romero-Martinez*,  
24 “the purpose of the enhancement is ‘to discourage the use of untraceable weaponry.’”  
25 *Id.* Because of this heightened risk, the Sentencing Commission developed a specific  
26 offense characteristic to address this directly. Such characteristic is applicable in this  
27 case. A sentence of 37 months is appropriate to accurately reflect the significance of  
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1 the crime, the illegal possession of a firearm, and the fact that the firearm was stolen  
2 and had an obliterated serial number.

3 Furthermore, the characteristics and criminal history of the Defendant warrants  
4 a sentence of 37 months. The Defendant is twenty-two (22) years old. Yet in that  
5 short time frame he has engaged in criminal acts ranging from minor misdemeanors to  
6 felonies. The sentence imposed by the Court should reflect the continued decisions by  
7 the Defendant to engage in criminal acts and disrespect the law. The Defendant has  
8 previously served time in state prison. He has previously been sentence to a term of  
9 probation and community supervision. All of the steps taken by the state criminal  
10 justice system have been unsuccessful in causing the Defendant to change his  
11 behavior.

12 The Court should sentence the Defendant to 37 months to ensure the Defendant  
13 understands the significance of his decision to continue to engage in criminal acts  
14 such as possessing a firearm. The Court should also sentence the Defendant to a three  
15 year term of supervision to ensure that the Defendant does not fall back into past  
16 negative behaviors and associations with known gang members. The Defendant  
17 indicated to the United States Probation Officer that he wanted to change his life style.  
18 This is the Defendant's opportunity to prove that he has the desire and will power to  
19 make the changes in his lifestyle to ensure he becomes a productive member of  
20 society.

21 A 37 month sentence is a sufficient sentence to promote respect for the law and  
22 deterrence. A sentence of 37 months is also in conformity with the need to avoid  
23 unwarranted sentencing disparities. A review of the Defendant's PSIR does not show  
24 a sufficient basis warranting a departure or variance from the guidelines.

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2 IV. Conclusion

3 The United States submits a sentence of 37 months, followed by a 3-year term  
4 of supervision is a fair and just sentence and no greater than necessary when  
5 considering the factors in 18 U.S.C. § 3553(a).

6  
7 Dated: July 19, 2019.

8 William D. Hyslop  
9 United States Attorney

10 s/ Patrick J. Cashman  
11 Patrick J. Cashman  
12 Assistant United States Attorney  
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 19, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Carl Oreskovich: carl@ettermcmahon.com

s/ Patrick J. Cashman

Patrick J. Cashman  
Assistant United States Attorney